



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2012-0251]

RIN 1625-AA00

Safety Zone, Temporary Change for Recurring Fifth Coast Guard

District Fireworks Displays; Northwest Harbor (East Channel) and

Tred Avon River, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily changing the enforcement periods and regulated areas of safety zone regulations for two recurring fireworks displays within the Fifth Coast Guard District. This regulation applies to a recurring fireworks display events that take place at Baltimore, MD and Oxford, MD. Safety zone regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of the Northwest Harbor (East Channel), Patapsco River, and Tred Avon River during the event.

DATES: This rule is effective from 8 p.m. on June 16, 2012, until 10:30 p.m. on July 3, 2012.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2012-0251]. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Mr. Ronald Houck, Sector Baltimore Waterways Management Division, U.S. Coast Guard; telephone 410-576-2674, e-mail Ronald.L.Houck@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking

A. Regulatory History and Information

On May 9, 2012, we published a notice of proposed rulemaking (NPRM) entitled "Safety Zone, Temporary Change for Recurring Fifth Coast Guard District Fireworks Displays; Northwest Harbor (East Channel) and Tred Avon River, MD" in the Federal Register

(77 FR 27159). We received no comments on the proposed rule. No public meeting was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. Due to the need for immediate action, the restriction of vessel traffic is necessary to protect life, property and the environment; therefore, a 30-day notice is impracticable. Delaying the effective date would be contrary to the safety zones' intended objectives of protecting persons and vessels involved in the event, and enhancing public and maritime safety.

B. Basis and Purpose

Fireworks display events are frequently held on or adjacent to navigable waters within the boundary of the Fifth Coast Guard District. For a description of the geographical area of each Coast Guard Sector—Captain of the Port Zone, please see 33 CFR 3.25. This regulation temporarily changes the enforcement period and regulated area for a safety zone for two annually recurring fireworks events, described at (b)(5) and (b)(21) of the Table to 33 CFR 165.506, that are normally scheduled to occur each year on June 14th and June and July—Saturday or Sunday before Independence Day holiday, respectively.

On June 16, 2012, the American Flag Foundation will sponsor their annual fireworks event. This event will take place in Baltimore, MD on the waters of the Patapsco River. The

regulation at 33 CFR 165.506 is enforced annually for this event. Also, a fleet of spectator vessels is expected to gather near the event site to view the fireworks. To provide for the safety of participants, spectators, and transiting vessels, the Coast Guard will temporarily restrict vessel traffic in the event area from 8 p.m. to 10:30 p.m. on June 16, 2012. The regulation at 33 CFR 165.506 will be enforced for the duration of the event. Vessels may not enter the regulated area unless they receive permission from the Coast Guard Captain of the Port Baltimore or the designated on-scene patrol personnel.

On July 3, 2012, the Tred Avon Yacht Club will sponsor their annual fireworks event. This event will take place in Oxford, MD on the waters of the Tred Avon River. The regulation at 33 CFR 165.506 is enforced annually for this event. Also, a fleet of spectator vessels is expected to gather near the event site to view the fireworks. To provide for the safety of participants, spectators, and transiting vessels, the Coast Guard will temporarily restrict vessel traffic in the event area from 8 p.m. to 10:30 p.m. on July 3, 2012. The regulation at 33 CFR 165.506 will be enforced for the duration of the event. Vessels may not enter the regulated area unless they receive permission from the Coast Guard Captain of the Port Baltimore or the designated on-scene patrol personnel.

C. Discussion of Comments, Changes and the Final Rule

The Coast Guard received no comments in response to the

NPRM. No public meeting was requested and none was held.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. Although this regulation would restrict access to these areas, the effect of this rule will not be significant because: (i) the safety zones will only be in effect from 8 p.m. to 10:30 p.m. on June 16, 2012 and from 8 p.m. to 10:30 p.m. on July 3, 2012, (ii) the Coast Guard will give advance notification via maritime advisories so mariners can adjust their plans accordingly, and (iii) although the safety zone will apply to the sections of the Patapsco River, Northwest Harbor (East Channel), and the Tred Avon River, vessel traffic will be able to transit safely around the safety zone.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-

612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in the effected portions of the Potomac River and National Harbor Access Channel during the event. Although this regulation prevents traffic from transiting specified portions of the Patapsco River, Northwest Harbor (East Channel), from 8 p.m. through 10:30 p.m. on June 16, 2012, and the Tred Avon River, from 8 p.m. through 10:30 p.m. on July 3, 2012. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: (i) the regulated areas are of limited size, (ii) this rule will only be in effect for five hours total, and (iii) although the safety zone will apply to a section of the Patapsco River and Tred Avon River, vessel traffic will be able to transit safely around the safety zone. Before the enforcement period, the Coast Guard will issue maritime advisories widely available to users of the waterway, to allow mariners to make alternative plans for transiting the affected area.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and

the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves implementation of regulations at 33 CFR Part 165 that establish safety zones on navigable waters of the United States for fireworks events. These safety zones are enforced for the duration of fireworks display events. The fireworks are launched from or immediately adjacent to navigable waters of the United States and may have potential for negative impact on the safety or other interest of waterway users and near shore activities in the event area. The category of activities includes fireworks launched from barges at or near the shoreline that generally rely on the use of navigable waters as a safety buffer. This rule is

categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES.

E. List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. In § 165.506, amend the table as follows:

a. Under "(b) Coast Guard Sector Baltimore-COTP Zone," suspend number 5,

b. Under "(b) Coast Guard Sector Baltimore-COTP Zone," suspend number 21, and

c. Under "(b) Coast Guard Sector Baltimore-COTP Zone," add numbers 26 and 27, to read as follows:

§ 165.506 Safety Zones; Fifth Coast Guard District Fireworks Displays.

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Table To § 165.506.-All coordinates listed in the
Table to § 165.506 reference Datum NAD 1983.

Coast Guard Sector Baltimore - COTP Zone			
Number	Date	Location	Regulated area
* 26.	* June 16th, July 4th, September— 2nd Saturday, December 31st.	* Northwest Harbor (East Channel), Patapsco River, MD, Safety Zone.	* * * * * All waters of the Patapsco River within a 200 yards radius of the fireworks barge in approximate position 39°15'54" N, 076°34'40" W, located adjacent to the East Channel of Northwest Harbor.
* 27.	* July 3rd.	* Tred Avon River, Oxford, MD, Safety Zone.	* * * * * All waters of the Tred Avon River within a 150 yard radius of the fireworks barge in approximate position latitude 38°41'24" N, longitude 076°10'37" W, approximately 500 yards northwest of the waterfront at Oxford, MD.

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Dated: June 4, 2012

Mark P. O'Malley
Captain, U.S. Coast Guard
Captain of the Port Baltimore.

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Date: 06/15/2012]